

House File 416 - Introduced

HOUSE FILE 416

BY GARRETT

A BILL FOR

- 1 An Act relating to the membership of the state judicial
- 2 nominating commission and district judicial nominating
- 3 commissions and providing an effective date.
- 4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 46.1, Code 2011, is amended to read as
2 follows:

3 **46.1 Appointment of state judicial nominating commissioners.**

4 ~~The~~ Except as otherwise provided in section 46.1A, the
5 governor shall appoint, subject to confirmation by the senate,
6 ~~one~~ four eligible ~~elector~~ electors of each congressional
7 district to the state judicial nominating commission for a
8 six-year term beginning and ending as provided in section
9 69.19. The terms of no more than ~~three~~ six nor less than ~~two~~
10 four of the members shall expire within the same two-year
11 period. No more than a simple majority of the members
12 appointed shall be of the same gender. The appointed members
13 shall be voting members.

14 Sec. 2. NEW SECTION. **46.1A State judicial nominating**
15 **members — appointment — transition.**

16 1. In order to transition to sixteen appointed members for
17 the state judicial nominating commission and to ensure each
18 appointed member serves a six-year term, and future terms are
19 staggered, the composition of the state judicial nominating
20 commission shall consist of the following number of appointed
21 members during the following time periods:

22 a. At the time of appointing successors for the two
23 appointive terms ending on April 30, 2011, the governor shall
24 appoint a total of five eligible electors to the state judicial
25 nominating commission. The appointive membership of the state
26 judicial nominating commission shall then consist of ten
27 appointed members from May 1, 2011, through April 30, 2013.

28 b. At the time of appointing successors for the three
29 appointive terms ending on April 30, 2013, the governor shall
30 appoint a total of six eligible electors to the state judicial
31 nominating commission. The appointive membership of the state
32 judicial nominating commission shall then consist of thirteen
33 appointed members from May 1, 2013, through April 30, 2015.

34 c. At the time of appointing successors for the two
35 appointive terms ending on April 30, 2015, the governor shall

1 appoint a total of five eligible electors to the state judicial
2 nominating commission. The appointive membership of the state
3 judicial nominating commission shall then consist of sixteen
4 appointed members from May 1, 2015, and every year thereafter.

5 2. To ensure geographic balance during the transition
6 to sixteen appointed members the governor shall first make
7 an appointment to the state judicial nominating commission
8 from the eligible electors of a congressional district with
9 the least number of appointed members on the commission. If
10 two or more congressional districts with the least number of
11 appointed members have equal membership the governor shall make
12 an appointment to break the tie and then appoint a member from
13 the congressional district with the least number of appointed
14 members on the commission.

15 Sec. 3. Section 46.2, Code 2011, is amended by striking the
16 section and inserting in lieu thereof the following:

17 **46.2 Election of state judicial nominating commission member.**

18 1. The resident members of the bar shall elect one
19 eligible elector of the state to the state judicial nominating
20 commission for a six-year term beginning July 1, 2015. The
21 members of the bar shall in January, immediately preceding the
22 expiration of the term, elect a successor for a like term. The
23 elected member shall be a nonvoting, advisory member.

24 2. The elected members of the state judicial nominating
25 commission serving on the commission as of the effective
26 date of this Act shall remain on the commission until their
27 respective terms end, and no new successor member shall
28 be elected except as provided in subsection 3. The voting
29 terms of the elected members of the state judicial nominating
30 commission end on the effective date of this Act.

31 3. In January 2015, the members of the bar shall elect the
32 eligible elector as provided in subsection 1.

33 Sec. 4. Section 46.2A, Code 2011, is amended by striking the
34 section and inserting in lieu thereof the following:

35 **46.2A Chairperson of the state judicial nominating**

1 **commission.**

2 1. The justice of the supreme court who is senior in length,
3 other than the chief justice, shall be the chairperson of the
4 state judicial nominating commission. The chairperson shall
5 be a nonvoting advisory member of the commission unless a vote
6 ends in a tie, in such case the chairperson is eligible to cast
7 the tie-breaking vote.

8 2. If supreme court justices have equal length of service,
9 the eldest of such justices shall be the chairperson of the
10 state judicial nominating commission.

11 Sec. 5. Section 46.3, Code 2011, is amended to read as
12 follows:

13 **46.3 Appointment of district judicial nominating**
14 **commissioners.**

15 The governor shall appoint five eligible electors of each
16 judicial election district to the district judicial nominating
17 commission. Appointments shall be to staggered terms of six
18 years each and shall be made in the month of January for terms
19 commencing February 1 of even-numbered years. No more than
20 a simple majority of the commissioners appointed shall be of
21 the same gender. The appointed commissioners shall be voting
22 members.

23 Sec. 6. Section 46.4, Code 2011, is amended by striking the
24 section and inserting in lieu thereof the following:

25 **46.4 Election of district judicial nominating commissioner.**

26 1. The resident members of the bar of each judicial election
27 district shall elect one eligible elector of the district to
28 the district judicial nominating commission for a six-year
29 term beginning February 1, 2016. The members of the bar shall
30 in January, immediately preceding the expiration of the term,
31 elect a successor for a like term. The elected commissioner
32 shall be a nonvoting, advisory commissioner.

33 2. The elected commissioners of the district judicial
34 nominating commission serving on the commission as of the
35 effective date of this Act shall remain on the commission until

1 their respective terms end, and no new successor commissioner
2 shall be elected except as provided in subsection 3. The
3 voting terms of the elected commissioners of the district
4 judicial nominating commission end on the effective date of
5 this Act.

6 3. In January 2016, the members of the bar shall elect the
7 eligible elector as provided in subsection 1.

8 Sec. 7. NEW SECTION. **46.4A Chairperson of district judicial**
9 **nominating commission.**

10 1. The district judge who is senior in length shall be the
11 chairperson of the district judicial nominating commission.
12 The chairperson shall be a nonvoting, advisory member of the
13 commission unless a vote ends in a tie, in such case the
14 chairperson is eligible to cast the tie-breaking vote.

15 2. If district judges have equal length of service, the
16 eldest of such judges shall be the chairperson of the district
17 judicial nominating commission.

18 Sec. 8. REPEAL. Section 46.6, Code 2011, is repealed.

19 Sec. 9. EFFECTIVE UPON ENACTMENT. This Act, being deemed of
20 immediate importance, takes effect upon enactment.

21 EXPLANATION

22 This bill relates to the membership of the state judicial
23 nominating commission and the district judicial nominating
24 commissions.

25 STATE JUDICIAL NOMINATING COMMISSION. The bill specifies
26 that members appointed to the state judicial nominating
27 commission by the governor shall be voting members of the
28 commission and members elected to the commission by members
29 of the state bar shall be advisory nonvoting members of the
30 commission. Current law provides that both appointed and
31 elected members of the state judicial nominating commission are
32 voting members.

33 Current law relating to the change in the number of Iowa's
34 congressional districts provides that the terms of each
35 appointed and elected member of the state judicial nominating

1 commission expire on December 31, 2012, and staggered
2 transitional terms begin January 1, 2013, based upon the four
3 congressional districts being established following the 2010
4 decennial census. The bill strikes these current transitional
5 provisions and establishes a new process for transitioning the
6 membership of the state judicial nominating commission based
7 upon four congressional districts being established following
8 the 2010 decennial census.

9 Under the new process established by the bill, the governor
10 shall appoint four eligible electors from each congressional
11 district to the state judicial nominating commission. The bill
12 allows the six-year term of each of the seven current appointed
13 members on the state judicial nominating commission to expire
14 six years after appointment.

15 In order for the state judicial nominating commission to
16 transition from seven appointed members to 16 appointed members
17 and to ensure each appointed member serves a six-year term,
18 and future terms are staggered, the size of the state judicial
19 nominating commission shall vary during the transitional period
20 under the bill. Beginning with the two appointive terms
21 ending on April 30, 2011, the governor shall appoint five
22 eligible electors to the state judicial nominating commission.
23 The appointive membership of the state judicial nominating
24 commission shall then consist of 10 appointed members from May
25 1, 2011, through April 30, 2013. Beginning with the three
26 appointive terms ending on April 30, 2013, the governor shall
27 appoint six eligible electors to the state judicial nominating
28 commission. The appointive membership of the state judicial
29 nominating commission shall then consist of 13 appointed
30 members from May 1, 2013, through April 30, 2015. Beginning
31 with the two appointive terms ending on April 30, 2015, the
32 governor shall appoint five eligible electors to the state
33 judicial nominating commission. The appointive membership
34 of the state judicial nominating commission, having achieved
35 the required number of appointed members, shall consist of 16

1 appointed members after May 1, 2015, and every year thereafter.
2 The bill reduces the number of members of the state judicial
3 nominating commission elected by the resident members of
4 the bar from seven members to one member by July 1, 2015,
5 and makes all current elected members nonvoting members of
6 the commission. The current members of the state judicial
7 nominating commission shall remain on the commission until the
8 respective term of the member ends. The last terms of current
9 elected members end on June 30, 2015. When the last terms
10 of current elected members end, the bill provides that the
11 resident members of the bar shall elect one eligible elector
12 of the state to the state judicial nominating commission for a
13 six-year, nonvoting term beginning July 1, 2015, and every six
14 years thereafter.

15 The state judicial nominating commission nominates persons
16 for appointment by the governor to the supreme court and court
17 of appeals.

18 DISTRICT JUDICIAL NOMINATING COMMISSION. The bill specifies
19 that members appointed to the district judicial nominating
20 commissions by the governor shall be voting members of the
21 commission and members elected to the commission by members
22 of the state bar shall be advisory, nonvoting members of the
23 commission. Current law provides that both appointed and
24 elected members of the district judicial nominating commissions
25 are voting members.

26 Under the bill, the number of commissioners appointed by the
27 governor to serve on a district judicial nominating commission
28 remains at five commissioners.

29 The bill reduces the number of commissioners of a district
30 judicial nominating commission elected by the resident members
31 of the bar from five members to one member by January 31, 2016,
32 and makes all current elected members nonvoting members of
33 the commission. The current members of the district judicial
34 nominating commission shall remain on the commission until
35 their respective terms end. The last term of a current

1 elected member ends on January 31, 2016. When the last term
2 of a current elected member ends, the bill provides that the
3 resident members of the bar shall elect one eligible elector of
4 the state to the district judicial nominating commission for a
5 six-year, nonvoting term beginning February 1, 2016, and every
6 six years thereafter.

7 The district judicial nominating commissions nominate
8 persons for appointment by the governor to the district court
9 bench.

10 CHAIRPERSON OF STATE JUDICIAL NOMINATING COMMISSION OR
11 DISTRICT JUDICIAL NOMINATING COMMISSION. The bill repeals Code
12 section 46.6 relating to judicial officers with equal seniority
13 serving as chairperson of the state judicial nominating
14 commission or a district judicial nominating commission and
15 moves these provisions to new Code sections 46.2A and 46.4A
16 respectively.

17 The bill makes the justice of the supreme court, who is the
18 chairperson of the state judicial nominating commission, a
19 nonvoting, advisory member of the commission unless a vote ends
20 in a tie, in such case the bill provides that the chairperson
21 is eligible to cast the tie-breaking vote.

22 The bill also makes the district judge, who is chairperson
23 of the district judicial nominating commission, a nonvoting,
24 advisory member of the commission unless a vote ends in a
25 tie, in such case, the bill provides that the chairperson is
26 eligible to cast the tie-breaking vote.

27 EFFECTIVE DATE. The bill takes effect upon enactment.